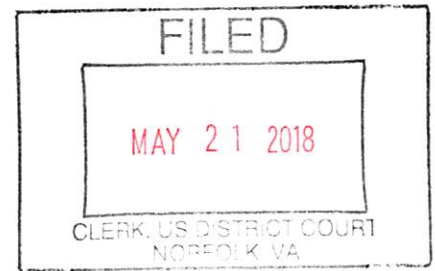


UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF VIRGINIA
Norfolk Division



ELEVATION A. CLARK, #1159414,

Petitioner,

v.

ACTION NO. 2:17cv366

HAROLD W. CLARKE,

Respondent.

FINAL ORDER

Petitioner Elevation A. Clark ("Mr. Clark"), a Virginia inmate, has submitted a *pro se* petition pursuant to 28 U.S.C. § 2254. ECF No. 1. Mr. Clark alleges that his federal rights were violated when he was convicted in the Circuit Court for the City of Hampton on October 10, 2012 of two counts of robbery, one count of possession of a firearm, one count of unauthorized use of a vehicle, one count of breaking and entering, and one count of grand larceny. *Id.*; *Commonwealth v. Clarke*, No. CR12-420, 57–58 (Va. Cir. 2012).¹

The matter was referred to a United States Magistrate Judge pursuant to the provisions of 28 U.S.C. § 636(b)(1)(B) and (C) and Rule 72 of the Rules of the United States District Court for the Eastern District of Virginia for report and recommendation. The Report and Recommendation was filed on April 13, 2018, and recommends granting Respondent's motion to dismiss (ECF No. 10), and that Mr. Clark's federal petition should be dismissed with prejudice. *See* ECF No. 18.

¹ Page citations to CR 12-420 refer to the paper record provided to this Court by the state courts, which is numbered in the bottom right corner of each page.

Each party was advised of the right to file written objections to the findings and recommendations made by the Magistrate Judge. The Court has received no objections to the Report and Recommendation, and the time for filing objections has expired. The Court hereby ADOPTS AND APPROVES the findings and recommendation set forth in the Report and Recommendation. It is, therefore, **ORDERED** that Respondent's Motion to Dismiss, ECF No. 10, is **GRANTED**, and the petition for a writ of habeas corpus, ECF No. 1, is **DENIED** and **DISMISSED WITH PREJUDICE**. It is further **ORDERED** that Judgment be entered in favor of Respondent.

Mr. Clark has failed to demonstrate "a substantial showing of the denial of a constitutional right," and, therefore, the Court declines to issue any certificate of appealability pursuant to Rule 22(b) of the Federal Rules of Appellate Procedure. *See Miller-El v. Cockrell*, 537 U.S. 322, 335–36 (2003).

Mr. Clark is hereby notified that he may appeal from the Judgment entered pursuant to this Final Order by filing a notice of appeal with the Clerk of this Court, United States Courthouse, 600 Granby Street, Norfolk, Virginia 23510, within thirty days from the date of entry of such Judgment.

The Clerk shall mail a copy of this Final Order to Mr. Clark and counsel of record for Respondent.



Arenda Wright Allen
United States District Judge

Norfolk, Virginia
May 21, 2018